



# Be Smart Buy Smart

## What Smart Shoppers Know About Sweepstakes, Contests and Lotteries

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### ***Sweepstakes, Contests and Lotteries***

Consumer authorities are in agreement that deceptive practices relating to sweepstakes are very common. Finding that the current methods of disclosure were inadequate and created misunderstandings, the California Legislature passed legislation that requires more complete disclosure of rules, prohibits the use of toll telephone numbers (such as “900” or “976” numbers), and prohibits identifying people as winners when they have not won.

Remember — even if the contest, sweepstake, or lottery you enter follows all of the legal requirements — chances are you won’t win.

### ***Why Companies Sponsor Contests or Sweepstakes***

The purpose of contests and sweepstakes is to increase sales or consumer awareness about a particular product or service the company is selling. The prizes are merely incentives for consumers to buy the sponsoring company’s products or services.

Magazine publishing companies have greatly increased magazine sales by using sweepstakes and contests. Charitable organizations, fast food restaurants, and timeshare resorts now also use sweepstakes and contests as promotional methods.

### ***Your Chances of Winning***

Usually, the odds of winning a sweepstakes, contest, or legal lottery are quite low — for example, more than 400 million to 1 against winning a grand prize of \$500,000. To determine your odds of winning, read the fine print on the ticket or the promotional materials.

The law prohibits the company from misrepresenting the odds of receiving any item offered.

### ***Sweepstakes***

***Penal Code section 319***

A sweepstakes is a game of chance requiring no purchase or any other payment in order to participate in the game. The fact that you do not have to pay anything to be eligible for the prize is what makes a sweepstakes legal. So, if you send in an entry without a “proof of purchase,” it must be given the same chance of winning as an entry that includes a “proof of purchase.”

Many people mistakenly believe that purchasing the product and checking the “yes” box on the entry envelope will increase their odds of winning the prize. However, to be legal, each entry must be given the same chance of winning the prize, whether or not the entrant makes a purchase or checks the “yes” box. In fact, California law requires that a sweepstakes solicitation include a

## **Sweepstakes (cont.)**

prominent statement in the official rules stating that no purchase is necessary.

It is unlawful for a sweepstakes operator to sell or solicit for an information access service (e.g., a “900” or “976” number) in any manner related to sweepstakes. This would include requiring that sweepstakes contestants call an information-access service.

By law, sweepstakes entry materials cannot represent, taking into account the context in which the representation is made, that a person is a winner or has already won a prize, unless that person has, in fact, won a prize.

## **Contests**

**Business and Professions Code  
section 17539.1-3**

A contest requires talent and skills (rather than pure chance) in order to win the prize, and is conditioned wholly or partly on a payment of some value. However, chance may play a part. For example, guessing the number of jelly beans in a jar is generally not considered to be a contest, although some people go as far as to figure out mathematical formulas for the area of each jelly bean.

A person who operates a contest may not represent, either directly or impliedly, that another person has won any prize or item of value without disclosing its exact nature and approximate value. Similarly, a person may not make representations to someone else that he or she has won any prize or item of value in a contest, unless there has been a real contest in which at least a majority of the participants have failed to win.

Every person who conducts a contest must disclose on each entry blank the deadline for submission of that entry.

Use of the word “lucky” to describe an entry form or symbol, or any other implication that advantage is conferred on the participant in preference to other participants, is prohibited.

The use of simulated checks, currency or items of value, is prohibited unless they bear the words “SPECIMEN – NONNEGOTIABLE” clearly and conspicuously.

All contest and promotional puzzles and games must clearly and conspicuously disclose each of the following:

- All the rules, regulations, terms and conditions of the contest
- The maximum number of puzzles or games that may be necessary to complete the contest and determine winners
- The maximum amount of money, including postage and handling fees, which a participant may be asked to pay to win each of the prizes offered
- The date(s) the contest will end, and the date(s) when all prizes will be awarded

- Whether future contests or tie-breakers, if any, will be significantly more difficult than the initial contest, and the method of determining prizewinners if a tie remains after completion of the last tie-breaker

The exact nature and approximate value of prizes must be disclosed clearly and conspicuously when they are offered

If a tie-breaker for extra cash or any other type of prize may be entered by paying money, it must be clearly disclosed to the participant that the payment is optional, and that he or she does not have to make the payment to play for these prizes. Participants must be given, clearly and conspicuously, the opportunity to indicate that they wish to enter this phase of the contest for free (other than reasonable postage and handling fees).

## **Lotteries**

**Penal Code section 319**

A lottery is a plan or scheme for disposing of a prize (money or something of value) predominantly by chance to people who have paid something of value for the opportunity of getting the prize.

Except for the state-run lottery and certain charitable bingo games, lotteries are illegal in California.

A lottery is composed of three elements:

- A **prize** (for example, money, an automobile, a vacation, or the right to play a free game)
- Payment of **consideration** to be eligible to win a prize (for example, 25 cents in exchange for a bingo card, or the purchase of a product sold by the sponsoring company)
- Distribution of the prize by **chance**

If one of these three elements is missing, then the scheme is not a lottery.

Carefully read the entry blank and all the promotional material. Sometimes, the entry blank is designed so that when you fill out the entry, you are also ordering a product or service. Remember, you don't have to order anything in order to enter a sweepstakes and have a chance to win a prize.

## **Before You Enter**

Read the entry rules carefully. You may be disqualified if you don't follow them exactly.

Be cautious of the wording of sweepstakes letters, which often give you the impression that you've already won something, and that you only have to send in a "donation" to collect. Remember, you don't have to buy or pay anything to enter a sweepstakes.

Don't put personal information such as your Social Security Number on an entry form. If the entry form requests your income,

## ***Before You Enter (cont.)***

marital status, or other sensitive information, think carefully about whether you want to provide it.

Sweepstakes often identify “pre-selected winner(s).” This usually means that each “winner” has been randomly selected by a computer and assigned a number, with one or more persons receiving designated prize(s). If the sweepstakes promotion states you are a “pre-selected winner,” you may be eligible only if you respond to the sweepstakes, and you may not win the prize that you want.

## ***Where To Go For Help***

**Your Local District Attorney.** Look in the county government pages of your phone book under the name of your county.

**The Attorney General.** Write a letter of complaint to the California Department of Justice, Office of the Attorney General, Public Inquiry Unit, Post Office Box 944255, Sacramento, CA 94244-2550, 1-800-952-5225, [www.caag.state.ca.us](http://www.caag.state.ca.us).

**The U.S. Postal Service.** If you have a problem with a contest or sweepstakes, and the entry form and promotional material was sent to you in the mail, contact the local postal inspector or postmaster. Incidents of suspected mail fraud can be reported to the Inspection Service by completing PS Form 8165, Mail Fraud Questionnaire. This form is available at your local post office or can be requested via the Internet ([fraud@uspis.gov](mailto:fraud@uspis.gov)). The U.S. Postal Inspector may also take action against foreign lotteries soliciting people within the United States.

**The Federal Trade Commission.** If you feel an advertisement for a contest or sweepstakes was misleading, or a method of promotion was deceptive, send a copy of your complaint letter to the Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103-1798, 415-356-5270, or 10877 Wilshire Boulevard, Suite 700, Los Angeles, CA 90024, 310-824-4300, [www.ftc.gov](http://www.ftc.gov). It's a good idea to include a copy of the advertisement or deceptive promotional material. The FTC does not resolve individual problems, but determines if a particular practice generally injures the public. Your letter of complaint may help convince the commission to investigate a company or business practice.

## ***For Information On Other Consumer Topics***

Visit the Department's website at [www.dca.ca.gov](http://www.dca.ca.gov) or call 1-800-952-5210.

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